

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2017-002380-001 DT
CR2017-122093-002 DT

08/31/2017

COMMISSIONER RICHARD L. NOTHWEHR

CLERK OF THE COURT
A. Dvornsky
Deputy

STATE OF ARIZONA

MICHELLE VAITKUS

v.

MICHAEL MARTINEZ (001)

KERRIE M DROBAN

JUDGE CORY

INITIAL PRETRIAL CONFERENCE

10:32 a.m.

Courtroom CCB 1001

State's Attorney:	Jenna Derango on behalf of Michelle Vaitkus
Defendant's Attorney:	Kerrie Droban
Defendant:	Present

A record of the proceedings is made digitally in lieu of a court reporter.

The Court conducts an initial pretrial conference (IPTC) this date.

Based upon the avowals made to the Court by the parties, the Court finds/orders as follows:

The State has filed Rule 15.1 disclosures.

The State has complied with all discovery.

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The Defense has filed Rule 15.2 disclosures.

Any request to extend the deadline set this date must be done pursuant to Rule 15.6(d). Failure to request an extension may result in the preclusion of the evidence.

The Court recommends that counsel set up and participate in a settlement conference prior to the plea cutoff date or the comprehensive pretrial conference, whichever is the earliest date.

Settlement conferences may be scheduled by contacting Settlement Conference on Demand program at settlement@superiorcourt.maricopa.gov, by phone at (602) 506-4538 or a criminal division directly.

IT IS ORDERED that pursuant to Rule 17.4(a) that counsel with authority to settle the case participate in a good faith discussion with the settlement court regarding a non-jury or no-trial resolution which conforms to the interests of justice.

Parties may schedule a change of plea proceeding at any time by contacting the Plea on Demand program at settlement@superiorcourt.maricopa.gov, or by phone at (602) 506-4538.

IT IS FURTHER ORDERED that counsel for Defendant shall conduct a conflicts check for all potential witnesses listed by the State, and if necessary counsel for Defendant shall file a Motion to Withdraw.

LET THE RECORD REFLECT that a plea offer has been extended.

IT IS ORDERED affirming a Comprehensive Pretrial Conference for 09/27/2017 at 8:30 a.m. before Judge Coury.

IT IS ORDERED that the attorneys for both the State and Defense be prepared to provide the court with the following information at the Comprehensive Pretrial Conference (CPTC):

A. The status of plea negotiations. This includes whether or not the State has tendered an offer; if so, when it expires; if a settlement conference was held or currently scheduled; and whether or not a Donald advisement is required.

B. The status of disclosure by both the State and Defense. This includes what discovery has been disclosed and what discovery still needs to be disclosed. If any discovery is

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left undisclosed, it is required that all parties comply with Rule 15.6 and provide appropriate affidavits.

- C. The expected number of trial days.
- D. The number of trial witnesses specifically identifying out of town witnesses and expert witnesses.
- E. The status of interviews, identifying the number of remaining witness interviews. This includes how many interviews have been conducted and how many are left to complete.
- F. Whether an interpreter is required for a witness, the defendant or both.
- G. The number of trial jurors required and recommended number of alternates.
- H. Whether the State is requesting an aggravating factors jury trial.
- I. Whether any special jury instructions are requested.
- J. Whether a lesser-included offense is requested.
- K. Whether substantive motions will be filed.
- L. Whether motions in limine are anticipated.

IT IS ORDERED that a party seeking a witness deposition must file a written motion at least two days before the CPTC date.

MOTIONS IN LIMINE:

Any motions in limine shall be filed twenty (20) days before Final Trial Management Conference (FTMC) and such motions must meet the test of State v. Superior Court, 108 Ariz. 396, 397, 499 P.2d 152 (1972): "The primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matters which may compel a mistrial." See also, Ariz. Rules of Evidence, Rule 103(c). A written response to a motion in limine may be filed no later than ten (10) days thereafter. The Court may rule on the motions in limine without oral argument. If the Court wishes to hear argument, the argument may be heard at the FTMC.

PRETRIAL MOTIONS:

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All pretrial motions must be filed in writing thirty (30) days before the FTMC. All motions must comply with Rule 35.1 including setting forth a sufficient factual basis for the motion. Failure to file a sufficient motion may result in the motion being denied without evidentiary hearing. See: Rule 16.1[c] Rule 16.2[b]; State v. Anaya 170 Ariz. 436, 443 (1997); State v. Wilson 164 Ariz. 406, 407 (1990) and State v. Alvarado 121 Ariz. 485, 487 (1979).

For master calendar cases, a copy of all pretrial motions shall be submitted to this division for proper routing. For all other cases, a copy of all pretrial motions shall be submitted to the assigned trial judge.

IT IS ORDERED setting the Final Trial Management Conference (FTMC) for 11/09/2017 at 8:30 a.m. before Judge Coury.

IT IS ORDERED setting the Trial Date for 11/16/2017 at 8:00 a.m. before the Master Calendar Assignment Judge located in Courtroom 5B in the South Court Tower.

Last Day: 12/16/2017 (0 DAYS EXCLUDED)

A DEFENDANT'S FAILURE TO APPEAR AT THE COMPREHENSIVE PRETRIAL CONFERENCE, THE FINAL TRIAL MANAGEMENT CONFERENCE OR THE TRIAL MAY RESULT IN A BENCH WARRANT BEING ISSUED FOR HIS OR HER ARREST AND THE CPTC AND TRIAL BEING CONDUCTED IN THE DEFENDANT'S ABSENCE.

The trial date shall not be continued unless a written motion to continue is filed with the master calendar assignment judge at least 5 days before the trial. A continuance will not be granted unless the motion shows that extraordinary circumstances exist. (Rule 8.5, rules of criminal procedure and guidelines thereto.)

Defendants seeking reconsideration rulings of the Court on a Motion to Modify Release conditions or a Motion for Rule 11, said motion shall be done by a Motion for Reconsideration. All Motions for Reconsideration, however denominated, shall be submitted without oral argument or without response or reply. No Motion for Reconsideration shall be granted without the Court granting an opportunity for a Response.

IT IS FURTHER ORDERED affirming prior custody orders.

10:34 a.m. Matter concludes.

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Notice: If an interpreter is needed for a victim or a witness for any hearing, counsel must notify the Court 48 hours in advance of the scheduled hearing. (Ten business days for any language other than Spanish).